

## **MINUTES**

### **LAKE COUNTY ZONING BOARD**

**JULY 5, 2006**

The Lake County Zoning Board met on Wednesday, July 5, 2006 in the Commission Chambers on the second floor of the Round Administration Building to consider petitions for rezonings, Conditional Use Permits, and Mining Site Plans.

The recommendations of the Lake County Zoning Board will be submitted to the Board of County Commissioners at a public hearing to be held on Tuesday, July 25, 2006 at 9 a.m. in the Commission Chambers on the second floor of the Round Administration Building, Tavares, Florida.

**Members Present:**

Timothy Morris, Vice Chairman	District 1
Scott Blankenship	District 2
Robert H. Herndon	District 4
Paul Bryan, Chairman	District 5
Donald Miller	Member-at-Large
Larry Metz	School Board Representative

**Members Not Present:**

James Gardner, Secretary	District 3
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**Staff Present:**

Carol Stricklin, AICP, Director, Department of Growth Management  
R. Wayne Bennett, AICP, Planning Director, Planning and Development Services Division  
Rick Hartenstein, Senior Planner, Planning and Development Services Division  
Stacy Allen, Senior Planner, Planning and Development Services Division  
Jennifer DuBois, Senior Planner, Planning and Development Services Division  
Mary Harris, Public Hearing Coordinator, Planning and Development Services Division  
Sherie Ross, Public Hearing Coordinator, Planning and Development Services Division  
John Maruniak, Transportation Planner/Engineer II/Engineering Division  
Melanie Marsh, Deputy County Attorney

Chairman Bryan called the meeting to order at 9:05 a.m. He led in the Pledge of Allegiance, and Larry Metz gave the invocation. Chairman Bryan confirmed with Rick Hartenstein, Senior Planner, that Proof of Publication was on the monitor and that the meeting had been noticed pursuant to the Sunshine Statute.

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**Minutes**

**MOTION by Timothy Morris, SECONDED by Donald Miller to approve the June 7, 2006 Lake County Zoning Board public hearing minutes, as submitted.**

**FOR: Morris, Blankenship, Herndon, Bryan, Miller, Metz**

**AGAINST: None**

**NOT PRESENT: Gardner**

**MOTION CARRIED: 6-0**

**Discussion of Consent Agenda**

Rick Hartenstein, Senior Planner, stated that speaker cards have been received for Agenda No. 5, PH#72-06-3, so that case will be removed from the consent agenda and placed on the regular agenda. In addition, a letter of opposition has been received for Agenda No. 6, PH#66-06-5, so that will also be removed from the consent agenda and placed on the regular agenda. There were no changes for the other cases on the consent agenda.

Consent Agenda

CASE NO.:	PH#65-06-1	AGENDA NO.:	1
OWNER/APPLICANT:	Robert Thomas Sheets		
CASE NO.:	PH#67-06-1	AGENDA NO.:	2
OWNER/APPLICANT:	Hart Construction and Development, Inc.		
CASE NO.:	PH#68-06-3	AGENDA NO.:	3
OWNER/APPLICANT:	Ferndale Baptist Church		
CASE NO.:	CUP#06/7/3-2	AGENDA NO.:	4
OWNER/APPLICANT:	Kristie Maples <u>Withdrawal</u>		
CASE NO.:	PH#71-06-1	AGENDA NO.:	7
OWNER:	Vorlon, LLC		
APPLICANT:	Steven J. Richey, P.A.		
CASE NO.:	CUP#06/7/2-4	AGENDA NO.:	8
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OWNER:	Barbara Shelley <u>Revocation</u>		

There was no opposition in the audience to these cases remaining on the consent agenda. The Zoning Board had no questions regarding these cases on the consent agenda.

**MOTION by Donald Miller, SECONDED by Robert Herndon to recommend approval of the above consent agenda.**

**FOR:** Morris, Blankenship, Herndon, Bryan, Miller, Metz

**AGAINST:** None

**NOT PRESENT:** Gardner

**MOTION CARRIED:** 6-0

CASE NO.: PH#72-06-3

AGENDA NO.: 5

OWNER: Jon L. Roberts

APPLICANT: Land Use Associates, LLC

Stacy Allen, Senior Planner, presented the case and staff recommendation of approval. She noted that the school concurrency language has been included in the ordinance. She showed the aerial from the staff report on the monitor.

Chairman Bryan stated that three speaker cards had been submitted for this case.

Bruce Duncan of Potter Clement Lowry & Duncan was present to represent the case. He said this property is close to the Leesburg city limits and adjacent to the Hawthorne development. His client has had several conversations with some of the Hawthorne residents who are directly adjacent to this property. He would like to address the Board after those in opposition have expressed their concerns.

Chairman Bryan stated that all exhibits presented at this meeting by staff, owners, applicants, and those in support or opposition must be submitted to the Public Hearing Coordinator prior to proceeding to the next case.

Don Baisden said he did not have a problem with a density of three houses per acre. However, he questioned the kind of homes that would be in this development and the price range. He noted that he had heard about a proposed left turn lane on Hollondel Road at CR 48. He felt that would be a good idea, but he also felt a left turn lane on CR 48 is needed as that is a very dangerous intersection.

Ken Cord said Mr. Baisden summed up most of his concerns, but he did question the easement problem in the event that further easement is necessary. He asked if it would come off his property or the subject property. They have taken easement from his property twice since he has lived there, but nothing has been taken from the west side.

Roy Hollins confirmed that R-3 zoning would prohibit cattle and horses. Mr. Hollins said 75 houses would generate 150 more cars. The road could not handle that unless it is widened.

Mr. Duncan stated that the price of the homes and the density of that land would prohibit affordable housing. Affordable housing is typically found on high-density land that is lower priced. In addition, this area is not suitable for affordable housing. As far as the left turn lane, he thought staff was requesting a left turn lane on CR 48 where it turns onto Hollondel Road. Regarding the additional right-of-way, staff will probably require the owner to grant additional right-of-way to Lake County. The owner cannot give Lake County any land he does not own. There has been no indication that the government would ask for any right-of-way from other residents. Mr. Duncan said it is not necessarily the zoning that determines whether or not agriculture can be used on the property. If there is an existing agricultural use that is on the property and it continues beyond the rezoning, that agricultural use may be allowed to continue for a certain period of time. However, his client could run the risk of having his agricultural exemption removed as a result of this rezoning. Since he thought his client intended to "flip" this land rather quickly, a phase out of the livestock issues may occur soon.

When Larry Metz asked Mr. Duncan to address the school issue, Mr. Duncan said the concurrency language would be in the rezoning ordinance stating that if this development is not a 55 and over community, they will be required to meet concurrency standards before platting. That has become standard practice in Lake County.

Mr. Metz pointed out that last month there had been discussion about the concurrency language being in straight zoning ordinances. One of the Board members had asked for a memorandum on that issue. Melanie Marsh, Deputy County Attorney, said she had spoken to Sanford A. Minkoff, County Attorney, about that. Mr. Minkoff rendered the opinion that it was acceptable to put that language in rezoning ordinances. He is currently out of the office, but he will address that issue with the Board at the next

**CASE NO.: PH#72-06-3**

**AGENDA NO.: 5**

**OWNER: Jon L. Roberts**

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**APPLICANT: Land Use Associates, LLC**

Zoning Board public hearing. When Mr. Metz asked if it would enforceable, Ms. Marsh said Mr. Minkoff did not speak to her about enforcement, but she would assume that if he felt the language was acceptable in the ordinance, he would think it would be enforceable.

**MOTION by Donald Miller, SECONDED by Robert Herndon to recommend approval of R-3 zoning in PH#72-06-3.**

**FOR: Morris, Blankenship, Herndon, Bryan, Miller**

**AGAINST: Metz**

**NOT PRESENT: Gardner**

**MOTION CARRIED: 5-1**

CASE NO.: PH#66-06-5

AGENDA NO.: 6

**OWNERS:** Donald and Sharon Kuester  
**APPLICANT:** Land Use Associates, LLC

Stacy Allen, Senior Planner, presented the case and staff recommendation of approval. She noted that the concurrency language has been included in the rezoning ordinance. She showed the aerial from the staff report on the monitor.

There was no opposition in the audience to this rezoning request. Chairman Bryan pointed out that this request was removed from the consent agenda based on a letter of opposition. At the request of Chairman Bryan, Ms. Allen summarized the letter and submitted it as County Exhibit A. Chairman Bryan confirmed with Ms. Allen that the primary access would be Rolling Acres Road. Ms. Allen said the sketch provided with the application shows a road coming off Rolling Acres Road directly into the development. Little Dirt Road would not be used. The writer of the letter of opposition was concerned about the noise, traffic, and the change.

Regarding school concurrency, Scott Blankenship spoke of several approved but not completed subdivisions that were mentioned in the staff report. Those developments would make the school numbers irrelevant because those numbers are based on current development. He would like to see a projection on the number of residential developments approved in this school district as these could have a significant impact. There still seems to be a question about the concurrency language in straight zoning. Ms. Allen agreed that the developments are looked at individually. Mr. Blankenship said this makes it difficult for him to make a decision, at least from the school standpoint.

Larry Metz referred to the minutes of the last meeting (Page 9) when this issue was discussed. It had been discussed that when the concurrency language is placed in a straight zoning ordinance, it becomes a conditioned zoning; it is no longer straight zoning. Last month, Ms. Marsh said she did not think that was enforceable; but she was going to confer with the County Attorney and then give this Board a legal briefing on that. Mr. Metz said he can support the concurrency language in a Planned Unit Development (PUD), but he would oppose the concurrency language in a straight zoning application as he has gotten contrary opinions on that subject. In response to Chairman Bryan, Ms. Marsh reiterated that she spoke with the County Attorney; and Mr. Minkoff has been recommending that the concurrency language be put in rezoning ordinances. She presumed that he was of the opinion that it would be enforceable.

Bruce Duncan was present to represent the case. In his opinion, Mr. Duncan said contract zoning prohibits putting things in a zoning ordinance that would not otherwise be provided for in the existing LDRs. A general rezoning ordinance always has language in it that states the current rules of the County must be met. The concurrency language being used states that the adopted concurrency requirements of Lake County must be met. He noted that there is already considerable development in the area. Although he understood the concerns of Mr. Smith (writer of the letter of opposition), access will be off Jackson Street and Rolling Acres Road so there should be little or no impact to Little Dirt Road.

**MOTION by Scott Blankenship, SECONDED by Donald Miller to recommend approval of R-3 zoning in PH#66-06-5. Mr. Blankenship added that the motion includes the concurrency language in the ordinance.**

Mr. Metz noted that the School Board shows that two of the three levels of schools in this area have permanent student station capacity. The overall impact is seven students total, and four of the students have permanent student stations to go to. The other three would go to Village Elementary School, which would put that school at seven percent overcapacity, which is within the levels of service that have been discussed for concurrency. For those reasons, he said he would support this motion.



**CASE NO.: PH#66-06-5**

**AGENDA NO.: 6**

**OWNERS: Donald and Sharon Kuester**  
**APPLICANT: Land Use Associates, LLC**

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**FOR: Morris, Blankenship, Herndon, Bryan, Miller, Metz**

**AGAINST: None**

**NOT PRESENT: Gardner**

**MOTION CARRIED: 6-0**

**CASE NO.: PH#48-06-2**

**AGENDA NO.: 9**

**OWNER: Kanta Deeying**  
**APPLICANT: Guy Grayford**

Rick Hartenstein, Senior Planner, presented the case and staff recommendation of denial. He showed the site plan and aerial from the staff report on the monitor.

Chairman Bryan confirmed that this case had been continued previously. Mr. Hartenstein said staff has had no further response from the applicant. There was no one present in the audience to represent the case.

There was no opposition in the audience to this request.

**MOTION by Timothy Morris, SECONDED by Scott Blankenship to recommend denial of R-3 zoning in PH#48-06-2.**

**FOR: Morris, Blankenship, Herndon, Bryan, Miller, Metz**

**AGAINST: None**

**NOT PRESENT: Gardner**

**MOTION CARRIED: 6-0**

CASE NO.: PH#16-06-3

AGENDA NO.: 10

**OWNERS:** Jim Lyden and Don Nicholson  
**APPLICANT:** Craig J. Kosuta

Wayne Bennett, Planning Director, presented the case and showed the aerial on the monitor. He explained that this case was previously heard on March 1, 2006 and continued until July 5. The intent of the continuance was to allow staff to prepare a small area study to look at the particular area in question, which is north of the Turnpike Interchange along US 27. Seventy-five (75) acres of the remaining 108 acres have already been platted into single-family residential lots. Thirty-three (33) acres is what the applicant is proposing to remain under the existing language of the PUD. He noted the staff recommendation of denial.

Mr. Bennett stated that no small area study has been prepared due to staff turnover and the focus placed on the Comprehensive Plan update. However, he was prepared to share his thoughts on what a small area study may indicate based on the current thought process with the Comprehensive Plan in terms of this Employment Center. He submitted the proposed 2025 future land use Local Planning Agency (LPA) recommendations in map form as County Exhibit A. He spoke of the three proposed and existing interchanges within a defined area that to the staff represents a unique opportunity in Lake County to create a campus-like, high-density employment center. Staff believes it represents an area of land that is ripe for the opportunity to create employment to support the housing development that is occurring to the north toward Howey-in-the-Hills and Leesburg and to the south toward Groveland, Clermont, Minneola and Montverde. In addition, the three interchanges will provide a high level of visibility for employment uses as well as good access. He added that staff feels it is way too early in the process to be changing a PUD that commits to the type of development that staff feels is both appropriate and good for Lake County and this particular area. Therefore, staff is recommending denial. Once the Comprehensive Plan has been finished, staff would like to see this entire area be given more detailed thought in terms of a specific plan for this area. This process should involve the property owners.

Robert Herndon asked when the Comprehensive Plan would be finished; Mr. Bennett replied that it would be this year. The Local Planning Agency (LPA) have meetings planned for July 10 and July 20 after which he believed that most, if not all, of the elements of the Comprehensive Plan will be ready to be transmitted to the Board of County Commissioners (BCC)

Mr. Blankenship said he appreciated Mr. Bennett's insight into this area of planning. He complemented the LPA on all their work in updating the Comprehensive Plan.

Regarding the overall vision of the area as described by Mr. Bennett, Mr. Metz said it would appear that market forces should also be involved in addition to master planning at the County level. He asked if staff had given any thought to the idea of whether this vision would be economically feasible for this area. The property owners wanted to change this idea because they said they had too much office space for the market, and they did not expect any movement over the next ten years. If staff is going to create a vision for the area, he felt there should be some other proposals to go along with it such as significant tax incentives or tax abatements to encourage people to come into the area.

Dotty Keedy, Director of Economic Growth and Redevelopment for Lake County, a newly created position to market an area like this, said that when businesses come to the County, they are ready to move forward. They are not willing to take the time and the risk of having to find the land and change the land use. It was her understanding that this has been a hindrance to the County.

Mr. Bennett added that, in his experience, the interplay in the market is always that the rooftops appear first, the people move in, and then retail and employment usually follow. There are many rooftops planned or in the process of being developed, part of which have already happened in this particular PUD. Coming soon will be the retail and employment that follows. Time is a critical element of this. It may not be appropriate at this time; but given his view of the economics in terms of the population and rooftops he has seen as well as forecasts, it is soon to be here.

**CASE NO.:** PH#16-06-3**AGENDA NO.:** 10**OWNERS:** Jim Lyden and Don Nicholson  
**APPLICANT:** Craig Kosuta**PAGE NO.:** 2

There was no one in the audience who had concerns or issues with this request.

Craig J. Kosuta of Craig J. Kosuta and Associates said this case was continued for three months for a study to be done, and he has just learned that there is no study. He was disturbed by that as they want to move forward. This request is based upon a market analysis and future planning of this area. The market for office space is not there for the foreseeable future in the quantities that are proposed for this development. In this entire PUD, there is in excess of 800,000 square feet of office space. That is not feasible in a PUD. The cap on office space is 300,000 square feet without doing a Development of Regional Impact (DRI). He said he received the draft ordinance that modified what they had requested. With few exceptions, they would be happy to move forward and work out the finer details with staff. It is their opinion that the Employment Center allows commercial and residential as long as the intensity and density does not exceed that which was originally planned for the office space. They have discussed the utility issue with the City of Leesburg as they are required to have central water and sewer. Central utilities will necessitate them entering into a utility development agreement with the City. As part of that agreement, they are required to annex into the City if their property becomes contiguous to the City limits. The City of Leesburg has told them to expect to be asked to annex into the City in the near future. Given that, they were also told they would be brought into the City with the proposed mixed-use development, which is the avenue the City thought would be appropriate, a residential component of R-4, perhaps R-6 or R-8, which would allow them to do 20 percent of their residential in multifamily. He talked to the City about the industrial being 15 percent; the City felt this was a little high given the fact that this property is uniquely situated between these roadways and the marshland. The City of Leesburg said that if this property was annexed, they may require some modification of the PUD such as 15 percent flex space that could be office, industrial, or commercial with five percent being the minimum threshold of industrial. When putting in a water line or road, it costs about the same whether there are three or four houses per acre. However, there is about a 20 percent value-added gain between an R-3 and an R-4 zoning. They would be willing to negotiate 3.5 houses per acre. With slight modifications, this proposal meets the County's quality mixed-use development guidelines. Even if he wanted to, his client cannot use more than 30 acres of the property for office space. It does not appear that a DRI would be possible with the other parties of the PUD not wanting to go that route. They would like to move forward and could probably have an acceptable ordinance by the BCC public hearing.

Regarding the three scenarios put forth, Timothy Morris asked if they were all under the trip mechanism for a DRI. Mr. Kosuta said they would be under the trip mechanism for the PUD. All three scenarios have ranges within the percentage mixes of the quality mixed-use development program. When Mr. Morris asked why the owners do not wait until this property is annexed into the City of Leesburg, Mr. Kosuta said his client wants to move forward under County terms. However, he explained to Mr. Morris that once this property is annexed into the City of Leesburg, the City would have every opportunity to modify under City rules and densities. The City tends to modify upward with a higher density. Once they "get through" the BCC public hearing at the end of the month, they will be breaking ground with probably a 20,000 to 30,000 square foot office building, which will be two-thirds owner occupied by his client.

Regarding the vision planning that Mr. Bennett had discussed, Mr. Blankenship said there appears to be a disconnect between the vision and this PUD. He was not comfortable that the owners or this Board know what is going on with this property.

Mr. Bennett stated that the County had requested a copy of the study Mr. Kosuta had referred to so County staff could review it and provide feedback to this Board, but the County was not provided with that copy. He questioned whether this is a market-based change in course or a DRI-threshold change in course. If it is more of a DRI-threshold change, that is something that has been known for a while. If this property were annexed into the City of Leesburg, under the existing State laws, the existing PUD would be brought into the City under the County's existing Employment Center designation or there would have to be a plan

**CASE NO.: PH#16-06-3****AGENDA NO.: 10****OWNERS: Jim Lyden and Don Nicholson**  
**APPLICANT: Craig Kosuta****PAGE NO.: 3**

amendment of some type to take that into a different situation with Leesburg. This would be another process to be completed because the County's existing plan classification and zoning would control until such time as there was an amendment otherwise.

In terms of vision and economic reality, Mr. Bennett said the economic reality is larger than this single property. The economic reality is that there is a market demand represented by the areas that he talked about in the vision. He felt that is something the County needs to look into further in terms of employment for the entire area and what would be most likely to occur in this particular gateway. This thought process also incorporates transportation. He advised the Board that this process takes places in a larger venue with other property owners and a detailed economic analysis in terms of rooftops and employees. This would be larger scale than the small area study that was discussed on March 1. He agreed with Ms. Keedy that this County needs a place where it can take major corporate employers in order to create the type of employment here that will bring people back from commuting out of Lake County to closer to where they live.

When Chairman Bryan asked Mr. Bennett if staff's recommendation of denial was based on his vision or the current Comprehensive Plan, Mr. Bennett replied that it was based on the current Comprehensive Plan.

In response to Mr. Metz, Mr. Kosuta said an office building could be built under the existing PUD. However, the owners would tend not to build it because the build out of the rest of the property is not there as it currently stands. Residential must maintain a balance with the office space.

When Mr. Morris asked if the economic study was available, Mr. Kosuta explained that he does have it; but his client will not release it. His client spent a considerable amount of money on the study, and there is no way to know what other forces that are developing properties in this area could learn from this study. His client had wanted to see the small area study to compare with his study.

Mr. Herndon said he could understand the client not wanting to share the results of the study if a large amount of money was spent on it.

If this study became public record, Mr. Kosuta said it could be very detrimental to his client's development and very positive to others who already have zoning in place.

Mr. Herndon felt there were points on both sides. If this case is denied, it appears as if this property will be annexed reasonably soon; and the County would lose control over density and probably the impact to schools. Mr. Blankenship questioned whether an approval or denial would have any relevance over whether the property is annexed.

In response to Mr. Herndon, Melanie Marsh, Deputy County Attorney, said that once the property is annexed, if it is consistent with the City's Comprehensive Plan, they could come back for public hearings and do what they wanted to with that zoning.

Mr. Metz noted that the draft ordinance in the book does not have the school concurrency language in it although they have said they are fully accepting of that language. If this should go forward, he felt that language must be in the ordinance. He added that this statement is no indication of his support of or opposition to this case.

Although he has always been a proponent of market-driven forces, Chairman Bryan said this is in clear violation of the Lake County Comprehensive Plan. Based on that, it would be difficult to support this request.

**CASE NO.: PH#16-06-3****AGENDA NO.: 10****OWNERS: Jim Lyden and Don Nicholson**  
**APPLICANT: Craig Kosuta****PAGE NO.: 4**

Mr. Bennett said one of the things that the County could, and probably should, look at in terms of this overall area being an important employment location for the County is that the State law still provides for an area-wide DRI. That may be something for the County to consider as an incentive for properties in this area to pave the way for larger scale projects that would help to implement the County's collective vision.

**MOTION by Donald Miller, SECONDED by Timothy Morris to recommend denial of the request to amend PUD#2004-78 for an increase in residential and commercial uses and a decrease in office use in PH#16-06-3.**

**FOR: Morris, Blankenship, Herndon, Bryan, Miller, Metz****AGAINST: None****NOT PRESENT: Gardner****MOTION CARRIED: 6-0**

**Adjournment**

There being no further business, the meeting was adjourned at 10:33 a.m.

Respectfully submitted,

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Sherie Ross  
Public Hearing Coordinator

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Paul Bryan  
Chairman